

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
M/S MAPLE ACE,

Appellant,

v.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB No. 78-260

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

This matter, the appeal of a \$250 civil penalty for smoke emissions allegedly in violation of respondent's Section 9.03(b) of Regulation I came on for hearing before the Pollution Control Hearings Board, Dave J. Mooney, Chairman (presiding) and Chris Smith, Member, convened at Tacoma, Washington on March 23, 1979. Respondent elected a formal hearing.

Appellant appeared by and through its agent, David Berg of Williams, Dimond & Company. Respondent appeared by and through its attorney, Keith D. McGoffin. Court Reporter Susan Cookran recorded

1 the proceedings.

2 Witnesses were sworn and testified. Exhibits were examined.
3 From testimony heard and exhibits examined, the Pollution Control
4 Hearings Board makes these

5 FINDINGS OF FACT

6 I

7 Respondent, pursuant to RCW 43.21B.260, has filed with this
8 Hearings Board a certified copy of its Regulation I containing
9 respondent's regulations and amendments thereto. Official notice
10 thereof is hereby taken.

11 II

12 On November 21, 1978 at 3:00 p.m., respondent's inspector observed
13 a smoking stack on the ship M/S MAPLE ACE, which was moored at Tacoma,
14 Washington. The inspector observed and recorded an emission of
15 black smoke from the forward stack of a shade equivalent to No. 3 on
16 the Ringelmann Chart, for 10 of 17 minutes. He then boarded the ship
17 and notified the chief engineer of the violation, and gave him a
18 placard, published by the Agency, which explains emission regulations
19 for ships. Thereafter, respondent sent Notice of Violation No. 15381
20 (Section 9.03(b)) to appellant's agent, Williams, Dirond & Company.
21 A Notice and Order of Civil Penalty No. 4070, in the amount of \$250,
22 was subsequently issued to appellant's agent. From this penalty,
23 appellant appeals.

24 III

25 There was no attempt by the ship or its agent to notify respondent
26 of the emission, prior to the inspector's observation. The Agency

27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 had no records of previous contacts with the ship; however, the agent
2 is familiar with the Agency's regulations, and makes an effort to
3 transmit this information to all ships, stressing the importance of
4 compliance. In this case, such notification followed receipt of the
5 Notice of Civil Penalty.

6 IV

7 Any Conclusion of Law hereinafter recited which should be deemed
8 a Finding of Fact is hereby adopted as such.

9 From these Findings the Pollution Control Hearings Board comes
10 to these

11 CONCLUSIONS OF LAW

12 I

13 In emitting an air contaminant, smoke, for more than three
14 minutes in any one hour, which contaminant is of a shade darker than
15 that designated on the Ringelmann Chart as No. 1 (20% density), appellant
16 violated Section 9.03(b) of respondent's Regulation I.

17 II

18 Appellant seeks a conditional suspension of the penalty, with
19 vacation after six months without further violations. While the
20 ship's crew, making their first call at Tacoma, may not have known of
21 respondent's regulations, the agent was fully informed, and aware
22 of its responsibility to instruct the crew. In these circumstances,
23 the \$250 civil penalty is reasonable.

24 III

25 Any Finding of Fact which should be deemed a Conclusion of Law
26 is hereby adopted as such.

27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 From these Conclusions the Pollution Control Hearings Board
2 makes this

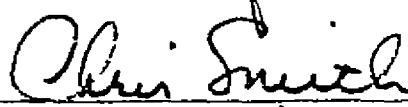
3 ORDER

4 The \$250 civil penalty appealed from, and imposed by Notice
5 and Order of Civil Penalty No. 4070, is hereby affirmed.

6 DONE at Lacey, Washington this 20TH day of April, 1979.

7 POLLUTION CONTROL HEARINGS BOARD

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9 DAVE J. MOONEY, Chairman

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11 CHRIS SMITH, Member
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26 FINAL FINDINGS OF FACT,
27 CONCLUSIONS OF LAW
AND ORDER